

**CITY OF ANGELS
PLANNING COMMISSION
SUMMARY MINUTES**

**Regular Meeting of Thursday January 14, 2010
City Fire House 1404 Vallecito Road
Angels Camp, California**

CALL TO ORDER

The meeting was called to order by Chairman Gary Croletto at 6:05 P.M.

PLEDGE OF ALLEGIANCE

ROLL CALL

Commissioners Present: Chair Croletto, Vice-Chair Middleton, and Commissioner Rowe,
and Commissioner Cullick

Commissioner Absent:

Staff Present: Planning Director David Hanham, and Diane Severud

APPROVAL OF MINUTES

1. Approval of the December 10, 2009 Planning Commission Minutes.

**MOTION BY COMMISSIONER MIDDLETON AND DULY SECONDED BY
COMMISSIONER CULICK AND CARRIED 4-0 TO APPROVE THE DECEMBER 10,
2009 PLANNING COMMISSION MEETING MINUTES AS AMENDED.**

**Approval of the December 1, 2009 Joint Planning Commission and City Council meeting
Minutes.**

**MOTION BY COMMISSIONER ROWE AND DULY SECONDED BY COMMISSIONER
MIDDLETON AND CARRIED 4-0 TO APPROVE THE DECEMBER 1, 2009 JOINT
PLANNING COMMISSION AND CITY COUNCIL MEETING MINUTES AS
PRESENTED.**

VERIFICATION OF RESOLUTIONS

None

PUBLIC COMMENTS

OPENED 6:22 P.M.

CLOSED 6:23 P.M.

COMMUNICATIONS AND PETITIONS

None

PUBLIC HEARING

2. Cont. from December 10th 2009 meeting Resolution 2009-24 recommending to the City Council the Rezoning of the SC district to CC district along Highway 49.

Planning Director Hanham presented the staff report and Resolution 2009-24 recommending to the City Council the Rezoning of 116 parcels in the SC district to CC district along Highway 49.

Planning Director Hanham gave a summary of the process of the 2020 General Plan Update that has happened to this point, beginning with the General Plan adoption February 3, 2009. The parcels for discussion at this time begins at Bragg Street and continues along Highway 49 to the intersection of Highways 4 and 49 that have been determined by the City Council to become Central Commercial (CC). There are 116 parcels that will be changed from Suburban Commercial (SC) to Central Commercial (CC) to become consistent and compatible with the General Plan Land Use Map. Based on the Community Commercial land use designation the zoning compatibility table shows four zone districts that can be changed. The four zone districts are (CC) Central Commercial, Visitors Serving Commercial, Public Property and Open Space.

At the last meeting, Robert Lee presented a letter dated 12/10/09 to the Planning Commission asking that the two parcels owned by his family remain zoned R3. Also, when the parcels in that area were re-zoned in 1996 to be SC, these two parcels were not changed and remained R3. If the two parcels were now changed to CC, any remodeling or additions would have to be done by applying for a variance or obtaining a conditional use permit.

Staff recommends that the Commission adopt Resolution 2009-24, rezoning the 116 parcels from SC to CC.

PUBLIC COMMENT OPENED 6:25 PM.

Dennis Lee, representing the Lee Family was present and spoke on behalf of the owners of the two parcels. He submitted a letter dated 1/12/10 (Attachment 1) asking the Commission to leave the two parcels as they are. He stated that he doesn't agree with the recommendations of staff and feels that a change to CC would be unjust. He stated that his pastor said the City could not do this. He continued that his family was not "nonconforming" and has been here for five generations spanning a time of 150 years. In his opinion, the Commission and the Council should be serving him and his family along with the other residents of the City. He is hopeful that there can be resolution to this matter without having to hire an attorney and pursue litigation.

PUBLIC COMMENT CLOSED 7:30 PM.

Commissioner Cullick asked the size of the two parcels in question and also the current zoning.

Planning Director Hanham stated the parcels in question are approximately an acre and a half put together and are zoned R-3 at this time.

Commissioner Cullick stated that R-3 is high density residential and these are only single family dwelling units on them currently.

Mr. Lee stated that the parcels are set up currently so that there is plenty of room for additions.

Planning Director Hanham stated that based on the size of the properties the R-3 zoning could possibly fit up to 35 units.

Commissioner Middleton inquired how many total acres did the family own at the location.

Mr. Lee responded approximately nine to eleven acres.

Commissioner Cullick stated that the General Plan wants to rezone the two parcels to CC, what is the other 8 acres going to be changed to and what is built on them at this point.

Planning Director Hanham stated that the larger parcel will need to be rezoned to Business Attraction and Expansion and it has homes built upon it.

Commissioner Middleton continued that he felt that leaving the parcels as they are is the right thing to do. He continued that if someone were to want to develop the parcels at a later date, they would need to purchase the parcels that front on Highway 49, tear down what is already there and then rebuild. In his opinion, Bret Harte High School is the most likely to grow in that direction.

Planning Director Hanham stated that General Plans look into the future. State law requires us to update the General Plan every 7 years. Most cities update their General Plan every 10 years because of the cost. The City in 1996 zoned all of these parcels SC except for those two parcels and I am not sure why they were left out. Now 13 years later all these parcels are being down graded or zoned to CC. I will have to go back and look into our zone districts and find out if single family dwellings are compatible with R-3 Districts because I don't believe that they are.

Chair Croletto asked Mr. Hanham to read the Section 65680 of the General Plan that states that the City has adopted a plan and that land use must be compatible with the specified plan.

Planning Director Hanham stated that Section 65680 basically states that a County or City zoning ordinance shall be consistent with the General Plan of the County or City by January 1, 1974. The zoning ordinance shall be consistent with the County or City General Plan only if both of the following conditions are met. 1. The City or County has officially adopted such a plan. The City of Angels has adopted the General Plan. 2. The various Land Uses authorized by the ordinance are compatible with the objectives, policies general land uses and programs specified in the plan. Various land uses authorized by ordinance is your zoning compatibility table, which means that the zoning needs to be consistent with the land use. Any resident or property owner within the City or County may bring an action in superior court to enforce compliance with the General Plan. In the event the zoning ordinance becomes inconsistent with the General Plan by reason of amendment of the plan or to any element of the plan the zoning ordinance shall be amended within a reasonable time so that it is consistent with the General Plan as amended.

Chair Croletto stated that one of the most important things to be aware of is paragraph "B". Any resident or property owner within the City or the County may bring an action or proceeding in superior court to enforce the compliance. So if Mr. Lee's properties stay R-3 and someone bought property next to his, those people would have the right to take the City to court because the City did not do the rezoning correctly.

Planning Director Hanham stated that any resident or property owner can bring a suit against the City for not being in compliance. It doesn't have to be the property next to them.

Commissioner Cullick stated that anyone can sue the City if we are not in compliance but what Mr. Middleton and I are saying is that the right thing for the City to do is to go back to the General Plan and change it.

Chair Croletto stated that he fully understands the family about their history but the one thing that can be done is a variance.

Mr. Lee stated that he personally does not want to apply for a variance because of the money it cost and then there is no guarantee that the variance will be granted.

Commissioner Cullick stated that he agrees with Mr. Lee and that this property has always been residential and the owner would like for it to stay residential.

Chair Croletto stated that I was on the General Plan Committee and there were two separate meetings where everyone had a chance to come and voice their opinion that they either agree with the General Plan or they could have stated that they wanted to change something within the General Plan. The final meeting was held November 9, 2005, and it was public noticed with it being listed as land owner's requests for land use designation changes for the City of Angels General Plan November 9th 2005. There was 15 request submitted for the City limits and sphere of influence and 6 of those were accepted by the General Plan committee. The point that I am trying to make is that there was two opportunities for people to change what they wanted to change.

Commissioner Cullick questioned if all the land owners were notified individually or publicly notified.

Chair Croletto stated it was publicly notified.

Planning Director Hanham stated that the public notice requirement on City wide projects are that the City has to take out a ¼ page ad for this and it is posted in the Post Offices and at City Hall. There were also a lot of starts and stops on the General Plan. This should have been adopted in 2006. There were four public hearings in November 2008 through January 2009. The property owner for the foundry was here at all four public hearings to make sure that he got what he wanted. So we don't notice every single property owner of every single action that affects the City. The noticing requirements are never enough to fill the need for what people want.

Commissioner Rowe stated that it is frustrating because we don't have a copy of the Land Use Map in our packet. The Land Use Map is totally color coded differently than the zoning map.

Planning Director Hanham stated that we are in the process of doing the rezones so that is why the colors are different. Once we adopted the Land Use map, now the zoning map needs to be changed so it reflects consistency with our Land Use Map.

Commissioner Rowe stated that she would like to go over this one more time now that the Commission has talked about it. If there was no choice and these properties went to CC against

what the property owner's wishes, then they have two choices, apply for a variance, or what is the second choice.

Planning Director Hanham stated that if everything goes through today and the two parcels remain the R-3 then if the Lee's brought in a project they would have to do a General Plan Amendment. That take about 6 months to complete and a variance would be 90 days. Most cities go through and make the zone changes with the land use. If someone comes in after that then they would need to do their own rezone. There can be an amendment in the zone district that would allow single family residents in your CC district. There are many different ways to change the zoning ordinance the way you want to, however it is up to the commission. This resolution needs to be voted on either way. We can't just continue this item until we update the zone district because then the city is left in a position that we are out of compliance.

Commissioner Rowe stated that she understands everything that Gary and Dave are saying but it is a whole different ball game in Angels Camp than in Turlock, Modesto, or the bigger cities.

Planning Director Hanham stated that these issues come up in every city no matter the size. As the City goes, we have parameters that we have to work within to comply. That is why staff is recommending that all of these parcels be rezoned to CC so that way we are in compliance.

Commissioner Rowe stated that I know that we can't make exceptions to every little thing but I think it would be considered good citizenship on our part to keep it the way they want it.

Commissioner Cullick stated that there is one R-3 parcel that is in this packet to be changed to CC, and that is one out of over a 100 parcels, so we are talking about an exception.

Planning Director Hanham stated that if the commission wants to make a motion in that manner with an exception then you can do that.

Chair Croletto stated that there was a error on these and both 058-023-032 and 058-023-033 are R-3.

Commissioner Rowe stated that the City Council would probably agree with what I was trying to say about leaving these two parcels as R-3. We need to figure out a different way.

Planning Director Hanham stated that you have to vote one way or the other for this to move forward. At this point, we need to take a look at this process to see how the City has handled this in the past.

Chair Croletto asked Director Hanham if it would be in the best interest of the City to amend the Resolution to exclude the two subject parcels. He warned the Commission that this would potentially set a precedent for future zoning changes.

Planning Director Hanham stated that the Resolution could be amended to reflect the exclusion of the two parcels in question.

Chair Croletto stated that whatever the outcome is and whatever the City Council decides, the two maps must be compatible.

Planning Director Hanham stated that if the commission does change the resolution then staff will bring back this resolution for verification in your next meeting.

MOTION BY COMMISSIONER CULLICK AND DULY SECONDED BY COMMISSIONER ROWE AND CARRIED 4-0 TO AMEND RESOLUTION 2009-24 TO CHANGE 114 OF THE PARCELS LISTED FROM SUBURBAN COMMERCIAL (SC) TO CENTRAL COMMERCIAL (CC) OR PUBLIC (P) AND EXCEPT THE EXISTING RESIDENTIAL PARCELS OF 058-023-032 AND 058-023-033 TO REMAIN RESIDENTIAL.

Mr. Lee thanked the Commission for their consideration of the matter and their recommendation to the City Council on behalf of his family.

PLANNING COMMISSION MATTERS

3. Large Format Ordinance Review

Planning Director Hanham reported that he has been working on the regulations for the large format retail stores which are directed at retail space from 220,000 square feet to 250,000 square feet. One of the major issues related to this regulation is outside sales, storage, and nursery space. Commissioner Middleton suggested that a percentage of the total retail space be designated for outside storage or nursery space. There was discussion regarding foreseeable issues related to the regulations, the difference between Suburban Commercial and Shopping Center Commercial, the 80,000 square foot maximum for large format stores in a shopping mall and the size of setbacks around retail buildings.

4. Draft Tree Ordinance Review

Chair Croletto reported that he had reviewed the Tree Ordinance from the City of Rocklin, as he had done for the one from the City of Auburn. He commented that he liked both and that he liked the one from Rocklin even better after careful review. He suggested that a Tree Ordinance Review Committee be formed when the Ordinance is adopted that includes a member of the Planning Commission, members of the public and the Planning Director Hanham. He pointed out several items of particular interest throughout the Ordinance and how they could be customized for the City's Ordinance. Commissioner Rowe also liked the Rocklin Ordinance and distributed copies of an Ordinance from the County of San Mateo (Attachment 2). There was discussion on the size of heritage trees, removal of trees, penalties and enforcement. The direction given to staff was to use the Ordinance from Rocklin as the base document for the draft and then make recommendations for changes from that. Chair Croletto offered to have staff review his copy of Rocklin's Ordinance, as he had highlighted and made notes on possible changes to it already.

COMMITTEE REPORTS

5. Joint City Council/Planning Commission Workshops – Chairman Croletto.

Chair Croletto reported that he had met with the Mayor to discuss the CCPC meeting to be held on February 2, 2010 regarding re-zoning and then a second meeting on March 2 or 16, 2010 to discuss City Police Powers.

6. Infrastructure Committee – Chairman Croletto

Chair Croletto reported that the next meeting will be January 15, 2010. Among the items to be discussed are a rate adjustment and fee elimination for the Main Street Café as it changes from a restaurant to office space. Also on the agenda is the cost of TV'ing sewer lines by CCWD, sludge disposal issues, Traffic Mitigation Fee Study, proposal for groundwater

monitoring wells, the fourth filter issue, the repaving of Stockton Road and the odor at Finnegan Lane.

7. Traffic Circulation Committee- Commissioner Middleton

Commissioner Middleton reported that the committee had met prior to this meeting and discussed Legacy Streets and the parking issues downtown. He also reported that a parking study will be done in the near future. Commissioner Cullick added that he would be an advocate for building a parking structure to attract businesses to the downtown area.

8. Large Format Committee- Chairman Croletto

It was decided to remove this item from the list on future agendas.

9. General Plan Implementation-Commissioner Rowe

New items will be added to this item in the future.

10. BLT-Commissioner Rowe

Commissioner Rowe stated that she had been unable to attend the last meeting.

COMMISSIONER'S REPORTS

11. Action List-Chair Croletto

Chair Croletto handed out the Action List dated 1/14/10. (Attachment 3).

Commissioner Middleton would like the Commission to be informed of any changes in the Community Development Office such as, when an employee is no longer there.

Commissioner Rowe commented that she had a new email address and had sent that information to the Community Development Office.

STAFF REPORTS

Planning Director Hanham reported that the Housing Element had been sent to the State for certification. He also reported that Jennifer Preston had left for a new job on January 2nd and her reinstatement was on the City Council agenda for January 19th. There was discussion regarding the Planners Institute Conference in Monterey on March 24th through the 26th. He continued that McDonald's was still waiting for an ownership issue to be resolved, there are a few remodels and second unit plans coming into the office, the Lode Hotel is being reviewed for a final shoring plan and interviews will be taking place for the selection of the firm to do the Angels Creek Trail Master Plan. He reported that he, the Mayor, the Vice-Mayor and John Benoit of LAFCO had met with County representatives to discuss the City's sphere of influence and how development will be decided. This process should last for three or four months. The application deadline for filling the Planning Commission member vacancy will be extended to 1/29/10 to receive more applications. Interviews will take place at the first City Council meeting in February.

MEETING WAS ADJOURNED AT 9:12 PM.

Gary Croletto
Gary Croletto, Chairman

ATTEST:

David Hanham
David Hanham, Planning Director

Attachment 1

**LEE - WAY CONSTRUCTION
P.O. BOX 521
ALTAVILLE, CA 95221
209-736-4192 phone
209-736-0269 fax
License #762770**

Date: 1-12-2010

Attn: David Hanham, Planning Director
City of Angels Planning Department

Proposed rezone of parcels 058-023-032 and 058-023-033

I am the owner of the parcel 058-023-033 and am speaking in behalf of my Grandmother owner of 058-023-032. These two parcels are on your list for scheduled rezone to (CC) Community Commercial from (R3) Residential.

We are against the rezoning of these parcels to Community Commercial for several reasons:

1. Changing the zoning to CC will not allow any change in the footprint existing houses. If one wants to add on he can not; as my family grows I may require the need for expansion and under the new zoning will not be able to. Also, I plan on building an approximate 3000 square foot garage/shop/outbuilding next to my house and can not unless designed as a commercial building. The cost increase for my garage would be huge.
2. My wife wants a swimming pool; will not be able to have without jumping into the commercial laws and regulations.
3. The increased Building Code Regulations from R3 to CC for any type of remodel, add on, and/or building on the property. There are a different set of design rules and regulations for Commercial Properties vs. Residential Properties. For example: Fire flows must be met and if not met I may be required to put fire sprinklers in my garage and/or house; I would have to get approval from Cal Trans for access before acquiring a building permit, plans and design are much more stringent for commercial buildings, and permit and fee costs are much more.
4. The rezone will de-value my property to potential buyers and appraisers by imposing more local government rules and regulations.
5. After reviewing the rezoning map I have noticed that the map is inconsistent with the rest of the parcels being rezoned. These two parcels are the only

residential properties being converted and are the only parcels which are three lots deep; the standard is two parcels from Highway 49.

These are only a few of the issues I will have to face if my property is rezoned to community commercial. Right now it is my right to add on, build a garage/shop, or have a swimming pool but if rezoned it will not be. As a partner of Lee – Way Construction, we have completed many commercial projects within the county and city and am full aware of the impact the change in zoning will have on these properties with regard to regulation, codes, and cost of adding a building or remodel.

I am a life long resident of Angels Camp and my family has been here since the gold rush; hence the name Lee Lane. We are not going anywhere. 5 or 10 years in the future, the planning department and director may be a different set of people and will impose commercial building code rules and regulations to the letter of the law; for they have not heard my case.

What is the reason for wanting to rezone mine and my grandmother's residential lots, with existing homes, to community commercial?

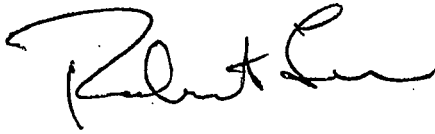
I am prepared to seek legal counsel to defend my rights as a property owner if my and/or my grandmother's property is continued to be pursued as part of the general plan for commercial properties within the City.

In 2001 we found out, after doing a property line adjustment and applying for a building permit, that these lots had been changed to commercial. This was done at some date prior and done without legal notification of any kind. We notified the city and had a meeting with Tim Shearer (City Administrator). During this meeting it was expressed that it was not the cities intent to change our residential developed properties to commercial since they were the third and fourth lots from the main highway. Therefore, the lots were changed back to residential and a building permit was issued in November of 2001. This zoning was to stay this way.

Mr. Hanham states that our properties are not consistent with the surrounding parcels. He is wrong. The other properties are not consistent with mine and my grandmother's because ours are developed and the others are not.

I am requesting that our properties be left zoned residential. If a big company wants to come in and develop this particular area they can pay for the rezone and general plan change. Mr. Hanham is trying to make it convenient for commercial use, when he has not considered the affects of the people who actually live on these parcels and in the area. I will not sit by at let a Director who does not live in the area to tell me what is the best use for my property. These properties were zoned this way in for a reason and to try to change them 8 years later is ridiculous.

I am out of town this week and give my Father permission, who also lives on Lee Lane, speak for me.

A handwritten signature in black ink, appearing to read 'Robert Lee', with a stylized, cursive script.

Robert Lee
Owner: APN 058-023-033

Alice Lee
Owner: APN 058-023-032

Attachment 2

COUNTY OF SAN MATEO
PLANNING AND BUILDING DIVISION
(Excerpt from the San Mateo County Ordinance Code)

**REGULATION OF THE REMOVAL AND TRIMMING OF HERITAGE TREES
ON PUBLIC AND PRIVATE PROPERTY**
(Ordinance No. 2427 - April 5, 1977)

CHAPTER 1. PURPOSE, FINDINGS, INTENT, AND POLICY

SECTION 11.000. The Board of Supervisors finds and declares that the County of San Mateo is an area of great natural beauty and that its outstanding heritage tree population has been and continued to be an invaluable asset in contributing to the economic, environmental, and aesthetic stability of the County and the welfare of its people and of future generations. The County is a highly desirable residential, business, and recreational area because of its great scenic beauty, its forests, trees and beaches, mountains, proximity to the San Francisco Bay and the Pacific Ocean, its equable climate, its parks and recreational areas, and other natural characteristics. Irresponsible, wanton, and wholesale destruction of heritage trees could, among other things, diminish such beauty, scientific and historical values, adversely affect the environment, reduce property values, detract from scenic highways, and destroy the County's recreational economy.

SECTION 11.001. The Board of Supervisors further finds and declares that it has already passed legislation to regulate the commercial harvesting of forest products in this County and that it does not intend by this enactment to affect that ordinance, but that it is the intention of the Board to control and supervise in a reasonable manner the cutting of heritage trees within the unincorporated area of the County as herein prescribed.

SECTION 11.002. It is further found and declared that, for the above reasons and in order to protect and preserve heritage trees in San Mateo County on both public and private property and to enhance the environment, the economy, and promote the general welfare and prosperity of the County, while respecting and recognizing individual rights to develop, maintain, and enjoy private property to the fullest possible extent, consistent with the public interest, convenience, and necessity, it is necessary to enact this ordinance and regulate the removal of heritage trees in the unincorporated area of San Mateo County. Designation of a heritage tree does not give or intend to give the public access to, or use or enjoyment of, private property.

CHAPTER 2. PRESERVATION OF TREES ON PRIVATE PROPERTY

SECTION 11.050. DEFINITIONS. For the purposes of this part, the following words shall have the meaning ascribed to them in this section:

- (a) "Person" means individuals, firms, associations and corporations, and agents, employees or representatives thereof.
- (b) "County" means the County of San Mateo acting by and through its authorized representatives.
- (c) "Tree" means a woody plant which has the inherent capacity of producing naturally one main erect axis of at least 12 feet, continuing to grow for a number of years more vigorously than the lateral axes.
- (d) "D.B.H." means diameter outside bark, 4 1/2 feet above average ground level.
- (e) "Basal area" means the cross-sectional area.
- (f) "Exotic Tree" means any tree introduced into areas of the County where such trees are not native as a part of their natural distribution.
- (g) "Heritage Tree" means any of the following:

Class 1 shall include any tree or grove of trees so designated after Board inspection, advertised public hearing and resolution by the Board of Supervisors. The affected property owners shall be given proper written notice between 14 and 30 days prior to inspection and/or hearing by the Board.

Class 2 shall include any of the following trees, healthy and generally free from disease, with diameter equal to or greater than the sizes listed:

- (1) Acer macrophyllum - Bigleaf Maple of more than 36 inches in d.b.h. west of Skyline Boulevard or 28 inches east of Skyline Boulevard.
- (2) Arbutus menziesii - Madrone with a single stem or multiple stems touching each other 4 1/2 feet above the ground of more than 48 inches in d.b.h., or clumps visibly connected above ground with a basal area greater than 20 square feet measured 4 1/2 feet above average ground level.
- (3) Chrysolepis chrysophylla - Golden Chinquapin of more than 20 inches in d.b.h.
- (4) Cupressus abramsiana - All Santa Cruz Cypress trees.
- (5) Fraxinus latifolia - Oregon Ash of more than 12 inches in d.b.h.

- (6) Lithocarpus densiflorus - Tan Oak of more than 48 inches in d.b.h.
- (7) Pseudotsuga menziesii - Douglas Fir of more than 60 inches in d.b.h. east of Skyline Boulevard and north of Highway 92.
- (8) Quercus agrifolia - Coast Live Oak of more than 48 inches in d.b.h.
- (9) Quercus chrysolepis - Canyon Live Oak of more than 40 inches in d.b.h.
- (10) Quercus garryana - All Oregon White Oak trees.
- (11) Quercus kelloggii - Black Oak of more than 32 inches in d.b.h.
- (12) Quercus wislizenii - Interior Live Oak of more than 40 inches in d.b.h.
- (13) Quercus lobata - Valley Oak of more than 48 inches in d.b.h.
- (14) Quercus douglasii - Blue Oak of more than 30 inches in d.b.h.
- (15) Umbellularia californica - California Bay or Laurel with a single stem or multiple stems touching each other 4 1/2 feet above the ground of more than 48 inches in d.b.h., or clumps visibly connected above ground with a basal area of 20 square feet measured 4 1/2 feet above average ground level.
- (16) Torreya californica - California Nutmeg of more than 30 inches in d.b.h.
- (17) Sequoia sempervirens - Redwood of more than 84 inches in d.b.h. west of Skyline Boulevard or 72 inches d.b.h. east of Skyline Boulevard.
- (h) "Protected Tree" means a tree specially listed as endangered by either the California Native Plant Society's List as amended or the Federal Register or any tree species designated protected by the Board of Supervisors.
- (i) "Private Property" means all property not owned by the County of San Mateo or any other public agency.
- (j) "Public Property" means all property owned by a public entity which is controlled or regulated by San Mateo County.
- (k) "Trim" means the cutting of or removal of any limbs, branches or roots of trees which will not seriously impair the health of trees.

SECTION 11.051. PERMIT REQUIRED TO REMOVE, DESTROY, OR TRIM TREES.

It shall be unlawful for any person to cut down, destroy, move or trim any heritage tree growing on any public or private property within the unincorporated area of San Mateo County without first obtaining a permit from the San Mateo County Planning Department except as herein provided. The Planning Director may require that a permit for trimming

of a heritage tree in an area defined by the General Plan as urbanized be carried out only by a licensed tree surgeon. A minimal charge shall be made for permits required by this ordinance.

Any area to which a valid Timber Harvesting Permit applies is exempt from this Ordinance.

SECTION 11.052. APPLICATION FOR AND GRANTING OF PERMITS. Any person desiring to cut down, destroy, move or trim one or more heritage trees on public or private property must apply to the San Mateo County Planning Department for a Heritage Tree Removal/Trimming Permit form provided by the Planning Department. Said application shall identify the species, contain the number, size and location of the trees or trees involved, contain a brief statement of the reason for the requested action, and describe any other pertinent information the Planning Director may require. Within 20 working days of receipt of the application, the Planning Director or his authorized representative shall inspect the premises and trees and shall ascertain which trees may be trimmed, cut down, destroyed, moved, or removed; provided however, the Planning Director may upon receipt of the application and such information, maps, sketches and/or photographs as he deems sufficient, make a determination without an inspection; provided further, failure to act within 20 days shall not be deemed approval. If trimming is to be performed by a licensed tree surgeon, the tree surgeon's inspection and decision may be accepted by the Planning Director for purposes of compliance with this section.

If no action on the approved permit is taken within a period of one year from the date of approval, the permit shall be considered void. The determination of the Planning Director in granting or denying the permit or in affixing conditions shall be based upon the following criteria:

- (a) The general health of the tree;
- (b) The anticipated longevity of the tree;
- (c) Whether the tree is a public nuisance;
- (d) Proximity to existing or proposed structures and interference with utility services;
- (e) The necessity of the required action to construct improvements or otherwise allow economic or other enjoyment of the property;
- (f) The number, species, size and location of existing trees in the area;
- (g) The effect of the requested action in terms of historic values;
- (h) The topography of the land and effect of the requested action on erosion, soil retention, water retention, and diversion or increased flow of surface waters.

The Planning Director may refer the application to another department, committee, or person for report and recommendation.

In granting a Heritage Tree Removal/Trimming Permit, the Planning Director may attach reasonable conditions to insure compliance with the content and purpose of this ordinance, such as, but not limited to, requiring replacement of trees removed with plantings acceptable to the Planning Director. If a permit is denied or conditions attached, the Planning Director shall provide the applicant with a written statement of the reasons for said denial or conditions based upon the above standards.

The Planning Director shall give priority to those applications based upon imminent hazard.

SECTION 11.053. EMERGENCIES. If an emergency develops which requires immediate response for the safety of life or property, action may be taken by seeking oral permission of the Planning Director, notwithstanding other provisions contained in this chapter. If the Planning Director is not available and action must be taken, the Planning Director shall be notified within a reasonable time thereafter. Such emergencies shall be exempt from Heritage Tree/Trimming Permit procedures.

SECTION 11.054. PRESERVATION AND MAINTENANCE OF EXISTING TREES.

- (1) When proposed structures or developments encroach into the dripline area of any heritage tree, special construction to allow irrigation and aeration of roots, as determined by the Planning Director, may be required with respect to any application for a building permit.
- (2) The existing ground surface within the dripline of the heritage tree shall not be cut, filled, compacted, or paved without having first obtained permission of the Planning Director. Tree wells or other techniques may be used where advisable. Excavation adjacent to such trees, where material damage to the root system will result, shall be allowed only after obtaining a permit as provided under Sections 11,051 and 11,052.
- (3) All applications for building permits, use permits, variances and other applicable permit applications shall be accompanied by a scaled plot plan indicating the location, size and species of heritage trees as defined in this Ordinance, which may be impacted upon by said permit execution.

SECTION 11.055. BUILDING PERMITS. When any building permit is applied for pursuant to the San Mateo County Ordinance Code and a proposed structure would require the cutting down, destruction, moving, removal, or trimming of one or more heritage trees, the Building Inspection Section of the Building Construction and General Services Department shall refer the matter to the Planning Director who shall take into consideration the provisions of this Ordinance before signing the building permit.

CHAPTER 3. PRESERVATION OF HERITAGE TREES - ENFORCEMENT

SECTION 11.100. NOTIFICATION. Any person who owns or controls a heritage tree shall give 60 days notice to the County of San Mateo of intent to sell lands upon which those trees are growing if such lands are contiguous to an existing County park.

SECTION 11.101. CUTTING, STRIPPING AND KINDRED ACTIONS FORBIDDEN. Any person who willfully strips off bark from, trims, cuts burls, branches or leaves from, defaces or gouges any part, or destroys by fire any Heritage Tree located in the unincorporated area of San Mateo County without having first received authority under the provisions of the County Timber Harvesting Ordinance or under provisions of this Part is guilty of a misdemeanor and is punishable by a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) or by imprisonment in the County jail for not less than 25 nor more than 150 days, or by both such fine and imprisonment.

CHAPTER 4. APPEALS

SECTION 11.150. APPEALS. The applicant, or any other person, who is aggrieved by the issuance or non-issuance of the permit or any conditions thereof may appeal as set forth below. A statement by the appellant shall be required indicating how he is aggrieved or adversely affected by the decision. At the time the appeal is heard, the Planning Commission shall rule upon the appellant's standing as an aggrieved party. If the Planning Commission rules that the appellant is not aggrieved, all further proceedings shall be stayed except that the appellant may appeal the Planning Commission decision on standing to the Board of Supervisors as herein provided.

- (1) Permits considered and acted upon by the Planning Director may be appealed to the Planning Commission by filing a written Protest with the Secretary of the Planning Commission within ten (10) days of issuance or denial of said permit. The Planning Commission shall render a decision on the appeal within fifteen (15) days of public hearing. The Planning Director shall notify the affected parties of said action in writing.
- (2) Permits considered and acted upon by the Planning Commission may be appealed to the Board of Supervisors by filing a written protest with the Secretary of the Planning Commission within (10) days from issuance or denial of said permit. The Board of Supervisors shall hear such appeal within sixty (60) days, and render a decision within fifteen (15) days following such hearing. The decision of the Board of Supervisors shall be final. The action taken by the Board of Supervisors shall be reported to the affected parties in writing.

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(5/8/02)

Attachment 3

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